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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**

8 ZACHARY KRISTON, )  
9 Plaintiff, )  
10 v. )  
11 TONY PEROULIS et al., )  
12 Defendants. )  
13 )

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2:09-cv-708-RCJ-LRL

**ORDER**

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15 Currently before the Court is *pro se* Plaintiff Zachary Kriston's Motion to Vacate (#151)  
16 filed pursuant to Federal Rule of Civil Procedure 60(b).

17 **BACKGROUND**

18 In a previous case, case no. 2:07-cv-284-JCM-GWF, Plaintiff had been found liable for  
19 embezzling over \$3,400,000 from Tony Peroulis. (See Order (#135) at 2). In April 2009,  
20 Plaintiff filed a 125-page complaint, in this Court, against 40 individuals who had been involved  
21 in the previous case. (Compl. (#1, 1-2, 1-3)). Plaintiff alleged multiple violations of the  
22 Racketeering Influenced and Corrupt Organizations Act ("RICO") and conspiracy to violate  
23 RICO. (See *generally* Compl. (#1-2, 1-3)). In February 2010, this Court dismissed all claims  
24 by Plaintiff, except for the claims against Defendants Harry Peroulis, Tony Peroulis, and Daryll  
25 Rosenblatt (collectively "Defendants") because they had not moved for dismissal. (See Order  
26 (#128); see Order (#135) at 5). After they moved for dismissal, this Court issued an order on  
27 April 16, 2010, dismissing all claims against Defendants with prejudice. (Order (#135) at 17).

28 In the April 16, 2010, order, the Court found that Plaintiff's complaint failed to allege  
federal and state violations of RICO and RICO conspiracy because Plaintiff failed to

1 adequately allege that Defendants had engaged in any predicate acts. (*Id.* at 10). The Court  
 2 also found that Plaintiff's allegations consisted of "wholly conclusory accusations" and that  
 3 Plaintiff did not once allege that Defendants had committed any of the actions that he  
 4 identified as the bases of the RICO violations. (*Id.* at 10-11). The Clerk of the Court entered  
 5 judgment in the case. (Judgment (#136)).

6 Plaintiff filed a notice of appeal. (Notice of Appeal (#141)). In August 2010, the Ninth  
 7 Circuit dismissed the appeal. (Ninth Cir. Order (#144)).

8 Plaintiff now timely files the pending Rule 60(b) motion within one year after the entry  
 9 of the judgment in this case. See Fed. R. Civ. P. 60(c)(1) (stating that a motion under Rule  
 10 60(b)(1) must be filed "no more than a year after the entry of the judgment or order or the date  
 11 of the proceeding"). (Mot. to Vacate (#151)).

## 12 **LEGAL STANDARD**

13 Pursuant to Federal Rule of Civil Procedure 60(b), a court may relieve a party or its  
 14 legal representative from a final judgment, order, or proceeding for "mistake, inadvertence,  
 15 surprise, or excusable neglect" or for "any other reason that justifies relief." Fed. R. Civ. P.  
 16 60(b)(1), (6).

## 17 **DISCUSSION**

18 In his motion to vacate, Plaintiff argues that the Court "must reconsider the inadvertent  
 19 rulings that have foreclosed upon [his] rightful claims under the RICO Act." (Mot. to Vacate  
 20 (#151) at 2). Plaintiff has filed "notices" for judicial review. (Notices (#150, 154)). Plaintiff  
 21 asserts that these notices inform the Court of "errant activity" associated with case number  
 22 2:07-cv-284-JCM-GWF. (*Id.* at 1).

23 In this case, the Court denies Plaintiff's motion to vacate. Plaintiff's motion does not  
 24 provide any evidence of inadvertence by this Court. Additionally, Plaintiff fails to demonstrate  
 25 error in the Court's previous order dismissing his RICO claims for failure to state a claim. As  
 26 such, the Court denies Plaintiff's motion to vacate (#151).

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## CONCLUSION

For the foregoing reasons, IT IS ORDERED that the Motion to Vacate (#151) is DENIED.

Dated this 10th day of January, 2012.

  
R. Jones  
United States District Judge